

FILED**MAY - 9 2008****RICHARD W. WICKING**
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,) CR No. CR 03-08-70096 MEJ
14 Plaintiff,) STIPULATION AND [PROPOSED] ORDER
15 v.) CONTINUING THE PRELIMINARY
16 TIMOTHY CRAIG,) HEARING AND EXCLUDING TIME
17 Defendant.)
18

19 This matter is set for a Preliminary Hearing / Arraignment on May 9, 2008. The United
20 States intended to present this matter for indictment before the Grand Jury on May 6, 2008. On
21 the morning of May 6, 2008, counsel for the United States learned that the intended law
22 enforcement witness for the case suffered a medical emergency, would not be able to appear
23 before the Grand Jury, and that he would be unavailable due to his medical situation for
24 approximately three weeks. Counsel for the United States has conferred with the investigating
25 law enforcement agency and confirmed that another witness, who was out of the District from
26 May 5-9, 2008, can be prepared and available to testify before the Grand Jury on the week of
27 May 12, 2008. Due to other court obligations, this witness is not available at the sitting of the
28 Grand Jury on Tuesday, May 13, 2008 but is available to testify on Thursday, May 15, 2008.

STIPULATION AND [PROPOSED] ORDER CONTINUING THE PRELIMINARY HEARING AND
EXCLUDING TIME - CR 03-08-70096 MEJ

With the testimony of this witness, the United States now intends to present this matter before the Grand Jury on Thursday, May 15, 2008. The defendant does not object to this continuance, believes that good cause exists to extend the time limits of Fed. R. Crim. P. 5.1(c),(d) due to the unavailability of an essential witness, and waives his right to have a preliminary hearing held within 20 days pursuant to Fed. R. Crim. P. 5.1(c),(d). The parties now stipulate and request that the Court enter an Order that the Preliminary Hearing be removed from the May 9, 2008 calendar and be continued until May 16, 2008 and that time should be excluded from the Speedy Trial Act calculations from May 9, 2008 through May 16, 2008. The parties represent that granting this continuance is necessary due to the unavailability of an essential witness. See 18 U.S.C. § 3161(h)(3)(A).

IT IS SO STIPULATED.

JOSEPH P. RUSSONIELLO
United States Attorney

DATED: May 8, 2008

/s/
DENISE MARIE BARTON
Assistant United States Attorney

DATED: May 8, 2008

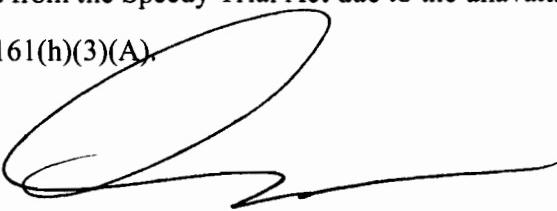
/s/
STEVEN KALAR
Attorney for TIMOTHY CRAIG

[PROPOSED] ORDER

For the reasons stated above, the Preliminary Hearing shall be removed from the May 9, 2008 calendar and be continued until May 16, 2008. The Court finds that a showing of good cause has been made to extend the time for a preliminary hearing pursuant to Fed. R. Crim. P. 5.1(c),(d) and that time should be excluded from the Speedy Trial Act due to the unavailability of an essential witness. See 18 U.S.C. § 3161(h)(3)(A).

IT IS SO ORDERED.

DATED: 5/8/08



Honorable Edward M. Chen
United States Magistrate Judge